

**MENDOCINO CITY COMMUNITY SERVICES DISTRICT**

**Post Office Box 1029**

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Minutes of December 19, 2011

The regular monthly meeting was called to order at 7:00 p.m. at the Mendocino Recreation & Community Center located at 10525 School Street in Mendocino. Present were Directors Kraynek, Waldman, Hauck and Schwartz. Steven Acker and Jodi Mitchell were present. Also present was Attorney James Jackson.

1. Public Comment

Director Schwartz, acting President, introduced Harold Hauck as the newest member to the MCCSD Board.

Director Schwartz announced that there existed a vacancy on the Board of Directors of MCCSD due to the resignation of Edward O'Brien, and said that it was urgent that someone be appointed to complete the 5-member Board. The legal notice of the vacancy was published in the Mendocino Beacon. The five-member Board was currently operating with four members and an open invitation was extended to the public.

2. Communications – There were no communications reported.

Director Schwartz stated that he would wait until 7:30 to open the public hearing, and asked for staff to report on Groundwater Management.

3. Groundwater Management

Superintendent Acker reported that the District measured 9.10 inches of rainfall to date. The District monitored rainfall amounts and groundwater conditions. The trigger dates for determining if a water shortage existed was January 31<sup>st</sup>, March 31<sup>st</sup>, and May 31<sup>st</sup>. According to the criteria contained in the Water Shortage Contingency Plan, the Superintendent would report the appropriate water shortage emergency condition.

If 19" has not fallen by January 31, 2012, then it may be determined that a water shortage existed and appropriate water conservation and water use reduction management actions would be declared. The Water Shortage Contingency Plan established criteria to declare a water shortage through four stages of alert and action, and to identify appropriate conservation measures and response actions for each water shortage stage to protect the water resources of the District.

Superintendent Acker noted that the wells had not been monitored yet this month and they would be monitored next week. Steve was asked to provide more detailed information regarding indicators and drought stages.

Director Hauck was concerned about the relationship of the January 31<sup>st</sup> water contingency report date and the proposal to reschedule the regular meeting to February 6th. It was explained that February 6<sup>th</sup> would be a suitable date to review the recommendations on any water shortage emergency conditions.

4. Old Business – None

5. New Business

Election of Officers and Committee Appointments

Director Waldman nominated Director Schwartz as President. Director Kraynek seconded the nomination

MOTION to elect Roger Schwartz as President.

ROLL CALL VOTE: AYES: Directors Kraynek, Waldman, Hauck and Schwartz

NOES: None

ABSENT: None

ABSTAIN: None

Director Waldman nominated Sam Kraynek as Vice President. Director Hauck seconded the nomination.

MOTION to elect Sam Kraynek as Vice - President.

ROLL CALL VOTE: AYES: Directors Kraynek, Waldman, Hauck and Schwartz

NOES: None

ABSENT: None

ABSTAIN: None

6. Attorney's Report

Attorney Jackson was present for the issue at hand – the Public Hearing for a Resolution of Necessity.

7. Public Hearing for Resolution of Necessity for Acquisition of Property by Eminent Domain for Public Use

President Schwartz summarized the history of this matter; that the MCCSD had advertised in the Mendocino Beacon for a suitable space to house the District vehicles. There was no possibility for future expansion at the Wastewater Treatment Plant and the District had expensive vehicles which required a proper storage facility. The District was approached by Monte and Barbara Reed, who offered their property without charge to the District. ~~in exchange for personal reasons of their own.~~ The only way for the District to acquire **and use** the property was by condemnation of the property through eminent domain for public use. The District hoped to someday have a building to house district vehicles, an office, a public meeting space, and water storage. **Legal counsel prepared, and provided to the Board a proposed Resolution of Necessity, which was incorporated by reference.**

Director Schwartz stated that the Board had determined a need for acquiring this land and an appraisal had been performed. The appraisal report of the real property was prepared by George R. Dutton, State Certified General Appraiser, and the current market value of the subject property was \$1,600,000.00.

The Hearing was opened to the Public.

Chet Anderson, resident of Point of View Estates and Bob Kerstein, President of the Point of View Water Company expressed various concerns regarding surveys, boundary issues, easements, water rights and spill issues.

Mr. Anderson informed the Board that they operated a State permitted potable water system for their subdivision, and their wells were located within a 40' diameter circular parcel and owned by the Water Company. In addition to this circle to which they have free title, they also have a 10' easement to the street. The previous Superintendent indicated that the District's records and the County's records showed that their well was located on an adjacent parcel. He was certain this was a mapping error and an issue that should be resolved.

Chet Anderson inquired about the liability of pine trees located on the property that may pose a threat to their water system. He noted their water requirements were very stringent, and were based on their assessment of the risk. At this time, they were not located in a high risk area, but having a garage with possible contamination issues may pose some threat to their assessment.

Attorney Jackson responded that there was a title search prepared for the parcel, and based on that search, the condemnation process would not interfere with existing easements and any existing encumbrances. It was the Board's intent that all easements and encumbrances would be accepted and honored during this process and it was not their intent to interfere with their water system.

Ed O'Brien, retired Board member, commented that originally he was not in favor of this idea, but came to believe that this would be something the District needed; a building to store district equipment, an office/storage/meeting room and water storage. The District's current location of the treatment plant was landlocked and it was imperative that the equipment be stored out of the elements. It was the intent to keep the property in public hands and any new development would be subject to stringent requirements, and it was certainly not the District's intent to ~~impede~~ infringe on the existing water system. He explained that the scenic easement was established as an offset for approval for part of the Hill House construction. The Coastal Commission was in a bargaining position with the Hill House and decided the highway view shed could be preserved.

Chet Anderson, speaking as a subdivision resident, expressed his general concern regarding commercialization of his neighborhood. While he could appreciate the greater benefit of the community, he did have concern about the seriousness of the government's eminent domain power to take private property. Attorney Jackson agreed that the MCCSD must have findings to take the property, and he was confident that the eminent domain condemnation process in this instance was an appropriate use of government power.

The public hearing was closed.

MOTION Waldman/Hauck: To adopt Resolution 2011-219, a Resolution of Necessity Authorizing Acquisition of an Interest in Real Property by Eminent Domain.

ROLL CALL VOTE: AYES: Directors Kraynek, Waldman, Hauck and Schwartz  
NOES: None  
ABSENT: None  
ABSTAIN: None

Attorney Jackson had prepared a Stipulation for Entry of Judgment and would request for a hearing by the court. He requested a retainer to proceed with any further action.

MOTION Kraynek/Waldman: To authorize \$2,000 to proceed with action as prepared by the attorney.

ROLL CALL VOTE: AYES: Directors Kraynek, Waldman, Hauck and Schwartz  
NOES: None  
ABSENT: None  
ABSTAIN: None

#### 8. District Superintendent Report

During the month of December, the treatment plant operated normally. Plant personnel performed routine plant maintenance and equipment repair.

No water has been transferred to the high school. The rainy season had started and it wasn't needed.

A resample for manganese had been sent in to Alpha Labs for the Redwood Landfill. Redwood Landfill provided dilution water to Alpha Labs for the test. This would give a "more accurate" result according to Redwood Landfill. A sample of sludge was also sent to Alpha for the Recology's Landfill as an alternative. Steve was asked to research the cause of the higher manganese. He responded that he was waiting for the results and he would enlighten the Board at the next meeting.

December self monitoring online and paper reports were sent in to Water Quality.

Staff took their regular monthly safety meeting. The Safety Officer also conducted the monthly safety inspection of the plant.

Kennedy Jenks sent a cost estimate for the final design of the pond liner. Task I Design was \$68,000.00 Task 2 Support tasks was \$35,000. The total was \$103,000. The preliminary design budget was \$48,000. The actual budget spent was \$29,861, leaving \$18,139. Kennedy/Jenks needed approval to proceed. Superintendent Acker would develop a proposal with Mike for the next meeting.

Steve had not heard from Laura Wilson from State Parks about the property line between the Dertner property and MCCSD as of December 14<sup>th</sup>. Mr. Cane telephoned the District. He had taken over for Laura Wilson, and he requested some correspondence related to this issue. The State may decide to adjust the property line. Steve would have further conversations with the State Parks regarding the existing encroachment.

Installation of the new pumps would require the digester to be emptied which would be done by accelerated pressing and drying. Pump installation would follow. Steve planned to use Mike Kelley to help with the installation process. Rainfall may be a factor. The old pumps were still functioning, so this was not an urgent matter. Steve estimated the plant could be off-line for 1-2 weeks.

9. District Secretary's Report

a. Demands and Disbursements

MOTION Kraynek/Waldman: To approve payment of checks #10536 through #10577, noting no checks were void.

ROLL CALL VOTE: AYES: Directors Kraynek, Waldman, Hauck and Schwartz  
NOES: None  
ABSENT: None  
ABSTAIN: None

10. Matters from Board Members

President Schwartz made the following assignments to the committees:

Plant Operations:	Roger Schwartz and Sam Kraynek
Finance	Roger Schwartz and Sam Kraynek
Personnel and Management	Roger Schwartz and Sam Waldman
Water Management	Sam Waldman and Harold Hauck
Street Lighting	Sam Waldman and Harold Hauck

AdHoc:

Compliance	Roger Schwartz and Harold Hauck
Special Event Tents	Sam Waldman/Sam Kraynek

The notice of vacancy specified January 9<sup>th</sup> as the cutoff for interested applications for the unexpired term of Ed O'Brien. If a volunteer came forward, a special meeting would be scheduled before the 19<sup>th</sup> of January to make the appointment.

Due to a scheduling conflict the next regular meeting was scheduled for February 6<sup>th</sup>.

Respectfully submitted,

Jodi Mitchell  
Secretary